

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

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|--------------------------------------|---|--------------------------------|
| In Re: | § | Chapter 11 |
| | § | |
| W.R. GRACE & CO., et al., | § | Jointly Administered |
| | § | Case No. 01-01139 (JKF) |
| Debtors. | § | |
| | § | |

**FEE AUDITOR'S FINAL REPORT REGARDING
FEE APPLICATION OF FERRY, JOSEPH & PEARCE, P.A.
FOR THE SIXTH INTERIM PERIOD**

This is the final report of Warren H. Smith & Associates, P.C. ("Smith"), acting in its capacity as fee auditor in the above-captioned bankruptcy proceedings, regarding the Interim Fee Application of Ferry, Joseph & Pearce, P.A. for the Sixth Interim Period (the "Application").

BACKGROUND

1. Ferry, Joseph & Pearce, P.A. ("Ferry Joseph") was retained as special asbestos products liability defense counsel to the Debtors. In the Application, Ferry Joseph seeks approval of fees totaling \$20,551.50 and costs totaling \$8,125.92 for its services from July 1, 2002, through September 30, 2002.

2. In conducting this audit and reaching the conclusions and recommendations contained herein, we reviewed in detail the Application in its entirety, including each of the time entries included in the exhibits to the Application, for compliance with 11 U.S.C. § 330, Local Rule 2016-2 of the Local Rules of the United States Bankruptcy Court for the District of Delaware, Amended Effective February 1, 2001, and the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. 330, Issued January 30,

1996, (the "Guidelines"), as well as for consistency with precedent established in the United States Bankruptcy Court for the District of Delaware, the United States District Court for the District of Delaware, and the Third Circuit Court of Appeals. We served on Ferry Joseph an initial report based on our review, and received a response from Ferry Joseph, portions of which response are quoted herein.

DISCUSSION

General Issues

3. In our initial report, we noted that the Application was generally adequately detailed and devoid of lumping. We complimented Ferry Joseph for their professionals' improvement in these areas.

Specific Time and Expense Entries

4. We noted that on numerous occasions RSM (\$175.00) and TJT (\$200) participated in the same conference calls for a total of 6.50 hours and \$1,217.50. See Exhibit A. According to Delaware Local Rule 2016-2(d)(ix), "[t]he activity descriptions shall individually identify all meetings and hearings, each participant, the subject(s) of the meeting or hearing, and the participant's role." The matter of multiple professionals in meetings or conferences is also addressed in the Guidelines, Paragraph II.D.5.: "[i]f more than one professional from the applicant firm attends a hearing or conference, the applicant should explain the need for multiple attendees." The fee detail does not provide the reason for both professionals participating in these calls nor does it explain each professional's role. Thus we asked Ferry Joseph to review Exhibit A and explain the need for both professionals to participate in these calls. Ferry Joseph responded as follows:

...RSM and TJT both regularly work on this case. Due to the complex nature of this

case it is necessary for both of them to attend the meetings for scheduling purposes as tasks are sometimes assigned during the meetings and to report to the committee regarding various tasks that either of them may have completed. It is imperative for both RSM and TJT to stay current and be knowledgeable of the multiple issues affecting the PD Committee in order to represent them properly. It is also necessary so that they are both prepared in the event that one of them isn't available then the other will be capable to fill in without jeopardizing the interests of the client. The meetings at issue here are regularly scheduled teleconferences with the PD Committee, which have been arranged and are held at the PD Committee's request.

We accept Ferry Joseph's explanation and thus have no objection to these fees.

5. In our initial report, we noted that on July 12, 2002 TJT has an entry for reimbursement of travel expenses totaling \$215.00. This expense entry is provided below:

| | |
|---|--------|
| <i>Expenses</i> - Theodore J. Tacconelli - Reimbursement of travel expenses | 215.00 |
|---|--------|

The Guidelines Paragraph II. E. provides that "[f]actors relevant to a determination that the expense is proper include the following: . . .3. Whether applicant has provided a detailed itemization of all expenses including the date incurred, description of expense (e.g., type of travel, type of fare, rate, destination), . . .". We asked Ferry Joseph to provide detailed information regarding this entry so that we could determine that the expense was proper. Ferry Joseph's response is provided below:

The entry for reimbursement of travel expenses on July 12, 2002 was for round trip train fare (\$205.00) and cab fare to and from the train station (\$10.00) that TJT incurred in connection with attending the May 22, 2002 case management conference with Judge Wolin in Newark, NJ.

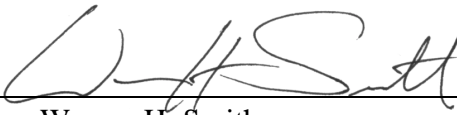
We accept Ferry Joseph's explanation and thus have no objection to these expenses.

CONCLUSION

6. Thus we recommend approval of fees totaling \$20,551.50 and costs totaling \$8,125.92 for Ferry Joseph's services from July 1, 2002 through September 30, 2002.

Respectfully submitted,

WARREN H. SMITH & ASSOCIATES, P.C.

By: 
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FEE AUDITOR

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served First Class United States mail to the attached service list on this 4th day of February, 2003.


Warren H. Smith

SERVICE LIST

Notice Parties

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EXHIBIT A

| | |
|-----------|--|
| Jul-11-02 | <i>Committee, Creditors', Noteholders' or</i> - Attend Committee Teleconference 0.50 RSM <i>Committee, Creditors', Noteholders' or</i> - Teleconference with Committee 0.50 TJT |
| Jul-18-02 | <i>Committee, Creditors', Noteholders' or</i> - Attend Committee Teleconference 0.60 RSM <i>Committee, Creditors', Noteholders' or</i> - Teleconference with Committee 0.60 TJT |
| Aug-08-02 | <i>Committee, Creditors', Noteholders' or</i> - Attend Committee Teleconference 0.80 RSM <i>Committee, Creditors', Noteholders' or</i> - Teleconference with Committee 0.60 TJT |
| Aug-15-02 | <i>Committee, Creditors', Noteholders' or</i> - Attend Committee Teleconference 0.20 RSM <i>Committee, Creditors', Noteholders' or</i> - Teleconference with Committee 0.20 TJT |
| Aug-22-02 | <i>Committee, Creditors', Noteholders' or</i> - Attend Committee Teleconference 0.30 RSM <i>Committee, Creditors', Noteholders' or</i> - Teleconference with Committee 0.40 TJT |
| Aug-29-02 | <i>Committee, Creditors', Noteholders' or</i> - Attend Committee Teleconference 0.40 RSM <i>Committee, Creditors', Noteholders' or</i> - Teleconference with Committee 0.40 TJT |
| Sep-05-02 | <i>Committee, Creditors', Noteholders' or</i> - Attend Committee Teleconference 0.50 RSM <i>Committee, Creditors', Noteholders' or</i> - Teleconference with Committee 0.50 TJT |